

BOARD OF AGRICULTURE, TRADE AND CONSUMER PROTECTION MINUTES

December 18, 2012

The Board of Agriculture, Trade and Consumer Protection met on December 18, 2012, at the Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, Board Room Madison, WI. The meeting was preceded by public notice as required by s. 19.84, Stats.

Call to Order

Board Chair Andy Diercks called the meeting to order at 9:05 a.m.

Members Present

Michael Dummer, Miranda Leis, John Koepke, Andy Diercks, Mark Schleitwiler, Richard Cates, Pam Garvey, Enrique Figueroa and Margaret Krome were present.

Minutes

Motion

John Koepke made a motion to approve the November 14, 2012, Board minutes. Second by Michael Dummer. Motion approved unanimously.

ATCP 49 – Wisconsin Farmland Preservation Program (Hearing Draft Rule)

Keith Foye and Alison Volk, Agricultural Resource Management Division, asked the Board to authorize public hearings on a proposed rule creating ch. ATCP 49, related to the farmland preservation program.

Wisconsin's Farmland Preservation Program (ch. 91, Stats.), was repealed and recreated under 2009 Wis. Act 28. Chapter 91, Stats., was updated to acknowledge the growing pressures on farmland across the state and to curb the increasing conversion of farmland out of agricultural use.

This proposed rule includes the following:

- Adds to definitions listed under s. 91.01, Stats., and further clarifies certain terms in ch. 91, Stats.
- Provides guidance for applying for and receiving certification of farmland preservation plans and ordinances.

- Specifies types of ordinance amendments for which certification is required under s. 91.36 (8) (b) 3., Stats.
- Authorizes additional uses allowed in a farmland preservation zoning district.
- Specifies information required in an application for a farmland preservation agreement under s. 91.64 (2) (h), Stats.

Motion

Margaret Krome made a motion to authorize public hearings. Second by Michael Dummer. Motion approved unanimously.

ATCP 70 – Wisconsin’s Food Processing Plants and Shellfish Shippers and Processors (Final Draft Rule)

Steve Ingham, Food Safety Division Administrator, and Tim Anderson, Food Safety Division, asked the Board to approve a final draft rule to amend ch. ATCP 70 related to Wisconsin’s food processing plants and shellfish shippers and processors.

This rule would incorporate changes that apply to processing molluscan shellfish (e.g. oysters, clams, mussels and certain forms of scallops). This rule would establish a program that allows Wisconsin food processing plants, that choose to participate in the program, to process and repack molluscan shellfish for sale in other states and internationally.

This rule does all of the following:

- Defines terms related to activities associated with the receipt, processing, repacking, labeling, storage, and shipping of molluscan shellfish.
- Modifies current rules to include provisions of the National Shellfish Sanitation Program (NSSP) and the guidelines of the Interstate Shellfish Sanitation Conference (ISSC) related to receiving, processing, repacking, labeling, storage and shipping molluscan shellfish for wholesale interstate and intrastate trade.
- Applies existing standards for facilities, sanitation, and personal hygiene in food processing plants to molluscan shellfish shippers, reshippers and reproducers.
- Sets standards for critical control points, critical limits, record-keeping and traceability, consistent with NSSP guidelines.

The department held three public hearings and there were no attendees. One written comment was received from the Federal Drug Administration which requested technical changes that were incorporated into the final draft rule.

Motion

Michael Dummer made a motion to approve the final draft rule. Second by John Koepke. Motion approved unanimously.

**ATCP 21 – Exotic Plant Pest
(Emergency Rule Scope Statement)**

Christopher Deegan and Elizabeth Miles, Agricultural Resource Management Division, asked the Board to approve a scope statement for an emergency rule related to exotic plant pests. A rule authorized by the scope statement will create county, multi-county, township or multi-township quarantines in which an exotic pest is detected.

The quarantine will prohibit the movement of all articles potentially harboring the damaging pest. These regulated articles would likely include: firewood, nursery stock, green lumber, and other woody material living, dead, cut or fallen, including logs, stumps, roots, branches and composted and uncomposted chips. Examples of pests include the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adlegid or Thousand Cankers Disease.

An emergency rule authorized by this scope statement will be submitted to the Governor for approval each time the department finds that a quarantine area for an exotic plant pest is required.

Motion

Margaret Krome made a motion to approve the emergency scope statement. Second by Michael Dummer. Motion approved unanimously.

**ATCP 136, 90, 91, 92 and 113 – Reclaiming or Recycling Refrigerant from Mobile Air
Conditioners, and Various Minor and Technical Rule Chapters
(Scope Statement)**

Kevin LeRoy, Trade and Consumer Protection Division, asked the Board to approve a scope statement for amendments to chs. ATCP 136, 90, 91, 92 and 113 related to reclaiming or recycling refrigerant from mobile air conditioners, and various minor and technical rule chapters.

Chapter ATCP 136 prohibits the sale or purchase of refrigerants in containers holding less than 15 pounds of refrigerant, which is now in direct conflict with 2011 Wisconsin Act 187. This rule will conform to current statutes. DATCP regulates sales of a number of products through its Weights & Measures program in chs. ATCP 90, 91, 92 and 113. This rule may make minor, technical changes to these rules to keep them current and consistent with statutory language standards from organizations such as the National Institute of Standards and Technology (NIST) and the Society of Automotive Engineers (SAE).

Motion

Miranda Leis made a motion to approve the scope statement. Second by Margaret Krome. Motion approved unanimously.

**ATCP 134 – Residential Rental Practices
(Hearing Draft)**

Kevin LeRoy, Trade and Consumer Protection Division, asked the Board to authorize public hearings on a proposed rule to amend ch. ATCP 134 related to residential rental practices. This rule aligns certain provisions in the existing rule with provisions in Ch. 704 (Landlord and Tenant) created by 2011 Wisconsin Act 143.

This rule will make changes relating to:

- Disclosures required before entering into a rental agreement.
- Returning security deposits.
- Withholding security deposits.
- Prohibiting certain rental agreement provisions.
- Confiscating personal property left behind by a tenant.
- Violations of Landlord Tenant law may constitute a violation of Unfair Trade Practices Law.

Motion

Margaret Krome made a motion to authorize public hearings. Second by Pamela Garvey. Motion approved unanimously.

**ATCP 1 – Discretion in Rule Violation Enforcement Against Small Business
(Final Draft)**

David Meany, Chief Legal Counsel, asked the Board to approve a final draft rule related to the department's discretion in rule violation enforcement against small business. 2011 Wisconsin Act 46 makes changes related to the discretion that an agency must use regarding minor violations by small businesses and requires adoption of rules to implement those changes.

This rule does all of the following:

- Creates a definition of "minor violation" for certain violations of department rules by small businesses.
- Provides that the department may exercise the discretion to forego formal sanctions or to seek reduced sanctions when a minor violation of department rules has been committed by a small business.

Motion

Miranda Leis made a motion to approve the final draft. Second by Michael Dummer. Motion approved. Enrique Figueroa opposed.

ATCP 161 – Dairy 30x20 Loans and Grants (Emergency Rule Scope Statement)

Kathy Schmitt, Agricultural Development Division, asked the Board to approve an emergency scope statement related grants and loans for dairy producers. This emergency rule implements the “grow Wisconsin dairy producer” grant and loan program.

DATCP received an annual appropriation of \$200,000 in the biennial budget to make grants and loans to dairy producers designed to promote the growth of the dairy industry. The Board approved a virtually identical final draft permanent rule which will not be completed until late spring or early summer of 2013.

Under this emergency rule, DATCP must issue at least one request for grant and loan proposals in each state biennium and describe the required form and content of grant and loan proposals, and must specify a deadline for submitting grant and loan proposals. DATCP must evaluate grant and loan proposals and issue its grant awards within 90 days of receipt of a complete proposal.

Motion

Mike Dummer made a motion to approve the emergency scope statement. Second by Pamela Garvey. Motion approved unanimously.

Wisconsin Agricultural Statistics Services (WASS)

Cindy Adamson, Wisconsin Agricultural Statistics Service, updated the Board on the following:

- Prices Received by Farmers:
 - Milk prices increased from \$23.10 per hundredweight in October to \$23.40 per hundredweight in November.
 - Corn prices increased from \$5.75 per bushel in November, 2011, to \$6.30 per bushel in November, 2012. National prices in 2012 were reported at \$6.71 per bushel.
 - Soybean prices increased from \$11.90 per bushel in November, 2011, to \$13.50 per bushel in November, 2012. National prices in 2012 were reported at \$13.80 per bushel.
 - Oat prices increased from \$3.90 per bushel in November, 2011, to \$4.00 per bushel in November, 2012. National prices in 2012 were reported at \$3.70 per bushel.
- The Census of Agriculture Questionnaire is scheduled to be mailed today to every farm in the nation. The questionnaire is due by February 4, 2013. Results of the survey will be released in 2014. Information received from this census assists in setting commodity estimates at the county level.

- The 2012 issue of Wisconsin Agricultural Statistics was released and contains information on the state's crop, livestock, and dairy production that is used by farms and businesses in their production, marketing, and planning activities.

Glendale Elementary School Update (Report)

Rainey Briggs, Principal at Glendale Elementary School updated the Board on the partnership between Glendale Elementary School and the department. The department began its partnership with Glendale Elementary in 2007.

Glendale Elementary School has 480 students, up from 398 last year. Over 80 percent of the students are considered low-income. Since the partnership formed, the department has been participating in the following activities to assist the children at Glendale:

- School Supply Drive – donations were collected from department staff and school supplies were purchased for the students at Glendale at the beginning of the school year.
- Book Drive and Silent Auction – the department holds an annual silent auction in which the proceeds generated are used to purchase new books for each child to take home. All extra funds are then given to the school to be used for the children at their discretion.
- Glendale Garden – a variety of individuals and students participate in the upkeep of the garden in which student and community members benefit from fresh vegetables.
- Take Your Student to Work Day – the department hosts a “take your student to work day” for the students annually.
- Mentors and Volunteers – department staff in mentoring children by reading, playing games and helping with homework before school or during lunch hours.

Agricultural Development Grant Program Update (Report)

Mike Bandli and Julie Speck, Agricultural Development Division, updated the Board on the Agricultural Development and Diversification Grant Award and Project and the Specialty Crop Grant Award and Project.

The Agricultural Development and Diversification Program (ADD) was established by the state legislature in 1989 to provide grants for new and innovative approaches to increase agricultural productivity and profits. ADD Grants provide early stage funds for market research and development, and feasibility studies of new technologies and practices.

The Specialty Crop Block Grant Program (SCBGP) is administered by the department through grants provided by the USDA Agriculture Marketing Services. SCBGP's are used to enhance the competitiveness of specialty crops. Specialty crops are defined as “fruits, vegetables, tree nuts, dried fruits, horticulture, and nursery crop (including floriculture).”

Highlighted projects included an ADD grant in the amount of \$24,205 to Jeff Malison, UW-Madison & UW-Stevens Northern Aquaculture Demonstration Facility for a commercial demonstration of new technologies for producing walleye and hybrid walleye for stocking and food fish. A Specialty Crop Grant was awarded in the amount of \$28,537 and \$27,500 to Rebecca Harbut, Fruit Specialist, UW-Madison Horticulture Department for evaluating soil moisture probes for water use efficiency in cranberry beds.

DATCP Grazing Program (Report)

Laura Paine, Agricultural Development Division, Paul Onan, from the Grazing Lands Conservation Initiative and Dave Johnson from GrassWorks, Inc. updated the Board on DATCP's grazing program and provided a summary of a needs assessment and recommendations for supporting managed grazing education in Wisconsin.

After nearly 15 years, both state and federal grant funding for managed grazing education and technical assistance is disappearing. The Grow Wisconsin Grazing Initiative planning team assembled from representatives of grazing organizations to analyze grazing education and technical assistance capacity among agencies and non-profit organizations in Wisconsin. Technical assistance involves one-on-one on-farm assistance including development of grazing plans and assistance with planning fencing, watering and lane systems. Education usually involves a group setting and includes formal pasture walks as well as classroom training and for-credit classes.

The following basic needs were identified for beginning and experienced farmers using managed grazing:

- Outreach and basic education.
- Initial grazing planning for beginning graziers.
- Advanced education for existing graziers.
- Upgrading grazing systems and updating grazing plans.

The group developed maps illustrating the capacity of agencies and organizations around the state to provide technical assistance and education. The maps identified counties where grazing services will be limited or absent after the grant funds run out.

Board Member Reports

Mark Schlietwiler: The new cheese plant at BelGiosio Cheese produced the first vat of parmesan cheese. Last week BelGiosio Cheese went food grade on whey processing.

Miranda Leis: Leis attended the Annual Farm Bureau meeting. Leis received a master's certificate in a project management program through the business school at the University of

Wisconsin. Projects at Organic Valley are steady, but quiet. Leis and her husband now own 20 beef cows that will be calving in spring.

Margaret Krome: The Farm Bill and appropriations are not expected to move forward before the new year. Every fall, four workshops are held by the Michael Fields Institute on how to use federal and state programs to support the initiatives and innovations of producers. Krome hired two interns at Michael Fields who begin work in January.

John Koepke: In Southeastern Wisconsin, the late onset of winter has allowed additional work to get completed. There have been a lot of challenges this year, but agriculture throughout Wisconsin is innovative and resilient. Given the dry weather, developments in farm investments and techniques will be interesting.

Pam Garvey: New claims in crop insurance have finally stopped coming in. There were a lot of losses this year across the nation. The agriculture community in many areas suffered, but because of commodity prices, losses were less severe. In Northern Wisconsin, 10-11 inches of snow has already fallen.

Michael Dummer: In west-central Wisconsin, things are really well and harvest is complete. The grain elevator business now runs year-round. Dummer is currently enrolled in an online accounting course. Dummer wished everyone a Merry Christmas.

Andy Diercks: Potato prices were not good this year, however, the last several years have been very good and a reset effort may help rebuild membership in the cooperative. Harvest is complete and the final shipment of fresh potatoes are being completed, which is three months later than last year. It is meeting season and Diercks has continued to have meetings on water issues and participated in a discovery farm meeting last week. Diercks wished everyone a Merry Christmas.

Secretary's Report

Secretary Brancel introduced Dr. Robert Ehlenfeldt, State Veterinarian and announced his retirement at the end of January, 2013. Dr. Ehlenfeldt has provided exceptional guidance to his staff and field workers. Dr. Ehlenfeldt began his state service in the 1980's and has established a great working relationship with USDA-APHIS and has faced serious challenges as state veterinarian with chronic wasting disease and tuberculosis. Dr. Ehlenfeldt is the state veterinarian and also the Animal Health Division Administrator. Dr. Ehlenfeldt will be missed greatly. The Board expressed their gratitude for his service and wished him well in his retirement.

Future Schedule and Agenda Items

The Board is scheduled to meet on February, 19, 2013 in Madison. Board members requested future agenda items to include:

- Inconsistencies in regulations related to transportation and agriculture
- Frac Sand Mining
- Beginning Farming
- Aging population of farmers and the transfer of land is expected to be the highest in history

Adjournment

By unanimous consent, the Board adjourned at approximately 2:20 p.m.

Andy Diercks, Board Chair

John Koepke, Secretary